

2960/112

PATENT COOPERATION TREATY

PCT

From the INTERNATIONAL SEARCHING AUTHORITY

NOTIFICATION OF TRANSMITTAL OF THE INTERNATIONAL SEARCH REPORT OR THE DECLARATION

(PCT Rule 44.1)

To: PASTERNAK, Dahna 1731 Embarcadero, Suite 230 Palo Alto CA 94303 UNITED STATES OF AMERICA

Date of mailing (day/month/year) 17/03/2004

Applicant's or agent's file reference 6750-0010.40

FOR FURTHER ACTION See paragraphs 1 and 4 below

International application No. PCT/US 03/32123

International filing date (day/month/year) 07/10/2003

Applicant IMAGING THERAPEUTICS, INC.

1. [X] The applicant is hereby notified that the International Search Report has been established and is transmitted herewith.

Filing of amendments and statement under Article 19:

The applicant is entitled, if he so wishes, to amend the claims of the International Application (see Rule 46):

When? The time limit for filing such amendments is normally 2 months from the date of transmittal of the International Search Report; however, for more details, see the notes on the accompanying sheet.

Where? Directly to the International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland Facsimile No.: (41-22) 740.14.35

For more detailed instructions, see the notes on the accompanying sheet.

6750-0010.40 DOCKETED Resp. ISR due 5/17/04 (LD)

2. [ ] The applicant is hereby notified that no International Search Report will be established and that the declaration under Article 17(2)(a) to that effect is transmitted herewith.

3. [ ] With regard to the protest against payment of (an) additional fee(s) under Rule 40.2, the applicant is notified that:

[ ] the protest together with the decision thereon has been transmitted to the International Bureau together with the applicant's request to forward the texts of both the protest and the decision thereon to the designated Offices.

[ ] no decision has been made yet on the protest; the applicant will be notified as soon as a decision is made.

4. Further action(s): The applicant is reminded of the following:

Shortly after 18 months from the priority date, the international application will be published by the International Bureau. If the applicant wishes to avoid or postpone publication, a notice of withdrawal of the International application, or of the priority claim, must reach the International Bureau as provided in Rules 90bis.1 and 90bis.3, respectively, before the completion of the technical preparations for international publication.

Within 19 months from the priority date, a demand for international preliminary examination must be filed if the applicant wishes to postpone the entry into the national phase until 30 months from the priority date (in some Offices even later).

Within 20 months from the priority date, the applicant must perform the prescribed acts for entry into the national phase before all designated Offices which have not been elected in the demand or in a later election within 19 months from the priority date or could not be elected because they are not bound by Chapter II.

Name and mailing address of the International Searching Authority European Patent Office, P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk Tel. (+31-70) 340-2040, Tx. 31 651 epo nl, Fax: (+31-70) 340-3016

Authorized officer Vera Eberhardt

RECEIVED MAR 22 2004 ROBINS & PASTERNAK

**PATENT COOPERATION TREATY**

**PCT**

**INTERNATIONAL SEARCH REPORT**

(PCT Article 18 and Rules 43 and 44)

Applicant's or agent's file reference 6750-0010.40	<b>FOR FURTHER ACTION</b> see Notification of Transmittal of International Search Report (Form PCT/ISA/220) as well as, where applicable, item 5 below.	
International application No. PCT/US 03/32123	International filing date (day/month/year) 07/10/2003	(Earliest) Priority Date (day/month/year) 07/10/2002
Applicant  IMAGING THERAPEUTICS, INC.		

This International Search Report has been prepared by this International Searching Authority and is transmitted to the applicant according to Article 18. A copy is being transmitted to the International Bureau.

This International Search Report consists of a total of 6 sheets.  
 It is also accompanied by a copy of each prior art document cited in this report.

**1. Basis of the report**

- a. With regard to the **language**, the international search was carried out on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
- the international search was carried out on the basis of a translation of the international application furnished to this Authority (Rule 23.1(b)).
- b. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international search was carried out on the basis of the sequence listing :
- contained in the international application in written form.
- filed together with the international application in computer readable form.
- furnished subsequently to this Authority in written form.
- furnished subsequently to this Authority in computer readable form.
- the statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- the statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished

2.  **Certain claims were found unsearchable** (See Box I).

3.  **Unity of invention is lacking** (see Box II).

4. With regard to the **title**,

- the text is approved as submitted by the applicant.
- the text has been established by this Authority to read as follows:

5. With regard to the **abstract**,

- the text is approved as submitted by the applicant,
- the text has been established, according to Rule 38.2(b), by this Authority as it appears in Box III. The applicant may, within one month from the date of mailing of this international search report, submit comments to this Authority.

6. The figure of the **drawings** to be published with the abstract is Figure No. 1a

- as suggested by the applicant.  None of the figures.
- because the applicant failed to suggest a figure.
- because this figure better characterizes the invention.

INTERNATIONAL SEARCH REPORT

International Application No

PCT/US 03/32123

A. CLASSIFICATION OF SUBJECT MATTER

IPC 7 A61F2/30 A61F2/38 A61F2/32 A61F2/40 A61F2/42

According to International Patent Classification (IPC) or to both national classification and IPC

B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)

IPC 7 A61F

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practical, search terms used)

EPO-Internal

C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category °	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	US 6 126 690 A (ATESHIAN GERARD A ET AL) 3 October 2000 (2000-10-03)	1,2, 9-15,19, 22-24, 26, 32-34, 37-42, 46-50, 62-65, 73,88, 89,100, 103,107, 109-111, 113,120, 121, 123-128, 132-136, 140, 147-150, 152
	-/--	

Further documents are listed in the continuation of box C.

Patent family members are listed in annex.

° Special categories of cited documents :

- \*A\* document defining the general state of the art which is not considered to be of particular relevance
- \*E\* earlier document but published on or after the international filing date
- \*L\* document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)
- \*O\* document referring to an oral disclosure, use, exhibition or other means
- \*P\* document published prior to the international filing date but later than the priority date claimed

- \*T\* later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention
- \*X\* document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone
- \*Y\* document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art.
- \*&\* document member of the same patent family

Date of the actual completion of the international search  
**5 March 2004**

Date of mailing of the international search report  
**17/03/2004**

Name and mailing address of the ISA  
European Patent Office, P.B. 5818 Patentlaan 2  
NL - 2280 HV Rijswijk  
Tel. (+31-70) 340-2040, Tx. 31 651 epo nl,  
Fax: (+31-70) 340-3016

Authorized officer  
**Storer, J**

INTERNATIONAL SEARCH REPORT

International Application No

PCT/US 03/32123

C.(Continuation) DOCUMENTS CONSIDERED TO BE RELEVANT

Category °	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	<p>abstract                      column 8, line 60 -column 9, line 61                      claims 11-13                      figures 1-3</p> <p>-----</p> <p>US 6 206 927 B1 (HALLOCK RICHARD H ET AL)                      27 March 2001 (2001-03-27)</p>	<p>1,2,                      11-15,                      22,24,                      29,                      31-34,                      54,55,                      59-66,                      72,                      88-91,                      101-103,                      109,111,                      112,116,                      118-121,                      139,140,                      144-151,                      153</p>
X	<p>abstract                      column 5, line 42 -column 8, line 34                      column 9, line 7 - line 61                      column 13, line 46 -column 14, line 36                      claims 1,4,5                      figures 5-11</p> <p>-----</p> <p>US 4 502 161 A (WALL W H)                      5 March 1985 (1985-03-05)</p> <p>abstract                      column 3, line 17 - line 68                      column 5, line 12 - line 27                      figures</p> <p>-----</p> <p style="text-align: center;">-/--</p>	<p>1,2,                      11-15,                      22,                      25-27,                      33,                      35-41,                      46-48,                      54,55,                      62-66,                      91,93,                      101-103,                      109,                      112-114,                      120,                      122-126,                      132-134,                      139,                      147-150</p>

INTERNATIONAL SEARCH REPORT

International Application No

PCT/US 03/32123

C.(Continuation) DOCUMENTS CONSIDERED TO BE RELEVANT

Category *	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	<p>DE 35 16 743 A (ORTHOPLANT ENDOPROTHETIK)                      13 November 1986 (1986-11-13)</p> <p>page 7, line 9 -page 8, line 32                      figures</p>	<p>1,2,                      9-15,19,                      21,22,                      26,33,                      54,55,                      62-65,                      71,92,                      102,103,                      107,109,                      113,120,                      139,140,                      147-150,                      152</p>
X	<p>WO 95 32623 A (REGEN BIOLOG INC)                      7 December 1995 (1995-12-07)</p> <p>abstract                      page 42 -page 43                      claim 1                      figures 9-12</p>	<p>1-4,                      11-16,                      18,21,                      23,33,                      35,36,                      55,56,                      62-65,                      91,                      102-104,                      106,110,                      120,122,                      140,141,                      147-150</p>
X	<p>US 5 683 466 A (VITALE GLENN C)                      4 November 1997 (1997-11-04)</p> <p>column 3, line 49 - line 58                      column 4, line 53 - line 61                      column 5, line 1 - line 19                      column 5, line 26 - line 38                      column 5, line 51 - line 65                      claim 9                      figures</p>	<p>1,2,                      9-15,22,                      25-28,                      33,54,                      55,                      62-65,                      73,96,                      107,109,                      112-115,                      119,120,                      139,140,                      147-150,                      152</p>

# INTERNATIONAL SEARCH REPORT

International application No.  
PCT/US 03/32123

## Box I Observations where certain claims were found unsearchable (Continuation of item 1 of first sheet)

This International Search Report has not been established in respect of certain claims under Article 17(2)(a) for the following reasons:

1.  Claims Nos.: 82-87  
because they relate to subject matter not required to be searched by this Authority, namely:  
Rule 39.1(iv) PCT - Method for treatment of the human or animal body by surgery
2.  Claims Nos.:  
because they relate to parts of the International Application that do not comply with the prescribed requirements to such an extent that no meaningful International Search can be carried out, specifically:
3.  Claims Nos.:  
because they are dependent claims and are not drafted in accordance with the second and third sentences of Rule 6.4(a).

## Box II Observations where unity of invention is lacking (Continuation of item 2 of first sheet)

This International Searching Authority found multiple inventions in this international application, as follows:

1.  As all required additional search fees were timely paid by the applicant, this International Search Report covers all searchable claims.
2.  As all searchable claims could be searched without effort justifying an additional fee, this Authority did not invite payment of any additional fee.
3.  As only some of the required additional search fees were timely paid by the applicant, this International Search Report covers only those claims for which fees were paid, specifically claims Nos.:
4.  No required additional search fees were timely paid by the applicant. Consequently, this International Search Report is restricted to the invention first mentioned in the claims; it is covered by claims Nos.:

### Remark on Protest

- The additional search fees were accompanied by the applicant's protest.
- No protest accompanied the payment of additional search fees.

# INTERNATIONAL SEARCH REPORT

Information on patent family members

International Application No

PCT/US 03/32123

Patent document cited in search report	Publication date	Patent family member(s)	Publication date
US 6126690	A	US 6459948 B1	03-10-2000
US 6206927	B1	WO 0059411 A1	27-03-2001
		US 2003055500 A1	12-10-2000
		US 2003055501 A1	20-03-2003
		US 2003060882 A1	20-03-2003
		US 2003060883 A1	27-03-2003
		US 2003060884 A1	27-03-2003
		US 2003060885 A1	27-03-2003
		AU 3379299 A	27-03-2003
		CA 2366822 A1	23-10-2000
		EP 1173119 A1	12-10-2000
		JP 2003525068 T	23-01-2002
			26-08-2003
US 4502161	A	US 4693722 A	05-03-1985
DE 3516743	A	DE 3516743 A1	13-11-1986
WO 9532623	A	US 5681353 A	07-12-1995
		AU 684183 B2	28-10-1997
		AU 2555395 A	04-12-1997
		CA 2191330 A1	21-12-1995
		EP 0760598 A1	07-12-1995
		JP 10501155 T	12-03-1997
		US 6042610 A	03-02-1998
		WO 9532623 A1	28-03-2000
		US 5735903 A	07-12-1995
			07-04-1998
US 5683466	A	NONE	04-11-1997